

105th Congress, 1st Session - - - - - House Document 105-11

DEVELOPMENTS CONCERNING THE NATIONAL
EMERGENCY WITH RESPECT TO IRAN

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT ON DEVELOPMENTS CONCERNING THE NATIONAL
EMERGENCY WITH RESPECT TO IRAN THAT WAS DECLARED IN
EXECUTIVE ORDER NO. 12170 OF NOVEMBER 14, 1979—RE-
CEIVED IN THE UNITED STATES HOUSE OF REPRESENTATIVES
NOVEMBER 15, 1996, PURSUANT TO 50 U.S.C. 1703(c)



JANUARY 7, 1997.—Referred to the Committee on International Relations
and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

39-011

WASHINGTON : 1997

THE WHITE HOUSE,
Washington, DC, November 14, 1996.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I hereby report to the Congress on developments since the last Presidential report of May 16, 1996, concerning the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c). This report covers events through September 16, 1996. My last report, dated May 16, 1996, covered events through March 1, 1996.

1. The Iranian Assets Control Regulations, 31 CFR Part 535 (IACR), were amended on August 22, 1996, to add the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132; 110 Stat. 1214-1319) (the "Antiterrorism Act") as an authority for the Regulations (61 Fed. Reg. 43460, August 23, 1996). On April 24, 1996, I signed into law the Antiterrorism Act. Section 321 of the Antiterrorism Act (18 U.S.C. 2332d) makes it a criminal offense for United States persons, except as provided in regulations issued by the Secretary of the Treasury in consultation with the Secretary of State, to engage in a financial transaction with the governments of countries designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as supporting international terrorism. United States persons who engage in such transactions shall be fined under title 18, United States Code, or imprisoned for up to 10 years, or both. Because the IACR already prohibited such transactions with minor exceptions found to be in the public interest, no substantive change to the prohibitions of the IACR was necessary. A copy of the amendment is attached.

2. The Iran-United States Claims Tribunal (the "Tribunal"), established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since the period covered in my last report, the Tribunal has rendered additional awards, in which the claims of dual nationals were dismissed for lack of jurisdiction. This brings the total number of awards rendered to 571, the majority of which have been in favor of U.S. claimants. As of September 16, 1996, the value of awards to successful U.S. claimants from the Security Account held by the NV Settlement Bank was \$2,376,010,041.91.

On July 24, 1996, Iran directed the transfer of \$37,700,000 to the Security Account, established by the Algiers Accords to ensure payment of awards to successful U.S. claimants, from the Interest Account. However, the Security Account has remained continuously below the \$500 million balance required by the Algiers Accords since November 15, 1992. As of September 23, 1996, the total

amount in the Security Account was \$233,070,127.71, and the total amount in the Interest Account was \$5,494,387.30.

Therefore, the United States continues to pursue Case A/28, filed in September 1993, to require Iran to meet its obligations under the Algiers Accords to replenish the Security Account. Iran filed its Statement of Defense in that case on August 30, 1995, and the United States filed a Reply on December 4, 1995. Iran is scheduled to file its Rejoinder on December 4, 1996.

The United States also continues to pursue Case A/29, filed in July 1994, to require Iran to meet its obligations under the Algiers Accords to pay its equal share of advances for Tribunal expenses when directed to do so by the Tribunal. Iran filed its Statement of Defense on July 5, 1996. The United States filed its Reply on October 11, 1996.

3. The Department of State continues to present other United States Government claims against Iran and to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

In May 1996, the United States filed comments in response to a Tribunal inquiry whether experts meetings could facilitate the resolution of the United States Request to Dismiss Certain Claims from Case B/61, filed in August 1995 as part of the United States consolidated submission on the merits of that case. The United States stated that experts meetings were inadvisable. Case B/61 involves a claim by Iran for compensation with respect to primarily military equipment that Iran had sought to purchase or have repaired under commercial contracts with more than 50 private American companies, but that Iran alleges it did not receive. Iran alleges that it suffered direct losses and consequential damages in excess of \$2 billion because of the United States Government refusal to allow the export of the equipment after January 19, 1981, in alleged contravention of the Algiers Accords. Iran's rebuttal of the United States consolidated submission in Case B/61 is due December 9, 1996.

On May 6, 1996, in connection with Cases A/4, A/7, and A/15 (I: F and III), Iran requested that the Tribunal order the United States to terminate its leases of two former diplomatic properties of Iran to its current tenants. The United States responded by submitting comments to the Tribunal on May 31, 1996. The Tribunal has not yet issued a decision on Iran's request. A hearing of these cases has remained postponed by the parties' mutual agreement and under Tribunal order since October 11, 1994.

On May 10, 1996, Iran made a request for interim measures in Cases A/15(IV) and A/24, brought against the United States for its alleged failure to terminate litigation in U.S. courts in violation of the Algiers Accords. Iran requested that the Tribunal order the United States to stay the McKesson-OPIC litigation against Iran in U.S. district court. On June 20, 1996, after briefing by both parties, the Tribunal denied Iran's request for interim measures. The parties await the Tribunal's award on the merits of the cases, which were heard more than a year ago before the Full Tribunal.

On June 27, 1996, in connection with Case B/1, the United States renewed a request for a Tribunal order directing Iran to produce seized United States Government documents and suspend-

ing the proceedings until Iran complies with the order. In this renewal of the pending request, the United States identified nine exhibits recently submitted to the Tribunal by Iran that appeared to have been seized from U.S. facilities in Iran.

The United States pointed out to the Tribunal that Iran had previously informed the Tribunal on several occasions that the Iranian government does not possess any of the documents that were once stored in the U.S. facilities in Iran. Iran submitted a response to the Tribunal on September 5, 1995, asserting that the documents were handed over to Iranian representatives in the normal course of the Foreign Military sales program operations.

In August 1996, Iran filed a Statement of Claim in a new case, number A/30, alleging that the United States has violated paragraphs 1 and 10 of the General Declaration of the Algiers Accords. Iran bases its claim, *inter alia*, on press statements about an alleged covert action program aimed at Iran and U.S. economic sanctions, including the Iran-Libya Sanctions Act of 1996. The United States is currently preparing its Statement of Defense in response to Iran's claim.

In Case A/11, Iran alleges that the United States violated the Algiers Accords by failing to assist Iran in obtaining the return of the Shah's assets. The Department of State is currently in the process of preparing the United States Hearing Memorial, which is due to be filed on December 13, 1996. Under the procedures established by the settlement reached February 22, 1996, on which I reported previously, the United States has begun to pay *ex gratia* amounts to the survivors of Iranian victims of the July 3, 1988, shootdown of Iran Air 655. As of the closing day for this report, 34 beneficiaries representing 12 of the deceased passengers had received payments totaling \$2,850,000.00. Under the terms of the settlement, no money will be paid to the Government of Iran.

4. Since my last report, the Tribunal conducted hearings in two cases involving U.S. nationals, considered dual U.S.-Iranian nationals by the Tribunal. On May 16, 1996, Chamber Three held a one-day hearing in Claim No. 266, *Aryeh v. The Islamic Republic of Iran*, which involves the alleged expropriation by Iran of claimant's property in Iran. On June 12-14, 1996, Chamber Two held a hearing in Claim No. 953 *Hakim v. The Islamic Republic of Iran*, another claim for the expropriation of property in Iran.

In August 1996, the United States submitted a brief on behalf of private dual national claimants in a proceeding before Chamber One of the Tribunal. The United States argued that the Tribunal erred in a previous decision when it denied a dual national's claim on the ground that the claimant had acquired his property in his capacity as an Iranian national. The brief takes issue with the rationale of the Tribunal's decision and urges the Tribunal not to extend this approach to the other pending dual national cases.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the

Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

Sincerely,

WILLIAM J. CLINTON.

31 CFR Parts 800, 815, 835, 860, 880,
and 875

Foreign Assets Control Regulations,
Cuban Assets Control Regulations,
Iranian Assets Control Regulations,
Libyan Sanctions Regulations, Iranian
Transactions Regulations, Iraqi
Sanctions Regulations;
Implementation of Section 321 of the
Antiterrorism and Effective Death
Penalty Act of 1996

AGENCY: Office of Foreign Assets
Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: This final rule amends the
Foreign Assets Control Regulations,
Cuban Assets Control Regulations,
Iranian Assets Control Regulations,
Libyan Sanctions Regulations, Iranian
Transactions Regulations, and Iraqi

Sanctions Regulations (the "Regulations") to implement section 321 of the Antiterrorism and Effective Death Penalty Act of 1996, by adding the Act as authority for the Regulations and advising the public of the criminal penalties imposed for violations.

EFFECTIVE DATE: 12:01 a.m. EDT, August 22, 1996.

FOR FURTHER INFORMATION CONTACT: Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220; tel.: 202/622-2520.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

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Background

On April 24, 1996, President Clinton signed into law the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104-132, 110 Stat. 1214-1319 (the "Act"). Section 321 of that Act (18 U.S.C. 2332d) makes it a criminal offense for United States persons, except as provided in regulations issued by the Secretary of the Treasury in consultation with the Secretary of State, to engage in financial transactions with the governments of countries designated under section 6(j) of the Export

Administration Act (50 U.S.C. App. 2405) as supporting international terrorism. U.S. persons who engage in such transactions shall be fined under title 18, United States Code, or imprisoned for up to 10 years, or both. This final rule amends the Regulations to add the Act as an authority for the Regulations, and to indicate the penalties imposed for violations of the Act. No other change to the Regulations is made. A separate rule adding the Terrorism List Governments Sanctions Regulations to implement section 321 of the Act with respect to financial transactions of U.S. persons with the governments of other countries designated under section 6(j) is being published simultaneously in the *Federal Register*.

Since the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

This rule contains no collection of information.

List of Subjects

31 CFR Part 500

Administrative practice and procedure, Banks, banking, Blocking of assets, Cambodia, Exports, Fines and penalties, Finance, Foreign claims, Foreign investment in the United States, Foreign trade, Imports, Information and informational materials, International organizations, North Korea, Publications, Reporting and recordkeeping requirements, Securities, Services, Specially designated nationals, Travel restrictions, Trusts and estates, Vietnam.

31 CFR Part 515

Administrative practice and procedure, Air carriers, Banks, banking, Blocking of assets, Cuba, Currency, Estates, Exports, Fines and penalties, Foreign investment in the United States, Foreign trade, Imports, Informational materials, Publications, Reporting and recordkeeping requirements, Securities, Shipping, Specially designated nationals, Travel restrictions, Trusts and trustees, Vessels.

31 CFR Part 535

Administrative practice and procedure, Banks, banking, Blocking of assets, Currency, Foreign investment in

the United States, Iran, Penalties, Reporting and recordkeeping requirements, Securities.

31 CFR Part 550

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign investment, Foreign trade, Government of Libya, Imports, Libya, Loans, penalties, Reporting and recordkeeping requirements, Securities, Services, Specially designated nationals, Travel restrictions.

31 CFR Part 560

Administrative practice and procedure, Agriculture commodities, Banking and finance, Exports, Foreign trade, Imports, Information, Investments, Iran, Loans, Penalties, Reporting and recordkeeping requirements, Services, Specially designated nationals, Transportation.

31 CFR Part 575

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign trade, Humanitarian aid, Imports, Iraq, Oil imports, Penalties, Petroleum, Petroleum products, Reporting and recordkeeping requirements, Specially designated nationals, Travel restrictions.

For the reasons set forth in the preamble, 31 CFR chapter V is amended as follows:

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

1. The authority citation for part 500 is revised to read as follows:

Authority: 50 U.S.C. App. 1-44; Pub. L. 104-132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); E.O. 9165, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9669, 13 FR 4891, 3 CFR, 1945-1948 Comp., p. 748.

Subpart G—Penalties

2. Section 500.701 is amended by adding paragraph (c) to read as follows:

§ 500.701 Penalties.

(c) Attention is directed to 18 U.S.C. 2332d, as added by Public Law 104-132, section 321, which provides that, except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, a U.S. person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be

ined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

PART 515—CUBAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 515 is revised to read as follows:
 Authority: 50 U.S.C. App. 1-44; 22 U.S.C. 6001-6010; 12 U.S.C. 2370(e); Pub. L. 104-114, 106 Stat. 785 (22 U.S.C. 6021-6091); Pub. L. 104-132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); Proc. 3447, 27 FR 1085, 3 CFR, 1959-1963 Comp., p. 157; E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1147; E.O. 9689, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

Subpart G—Penalties

2. Section 515.701 is amended by adding paragraph (e) to read as follows:

§ 515.701 Penalties.

(e) Attention is directed to 18 U.S.C. 2332d, as added by Public Law 104-132, section 321, which provides that, except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, a U.S. person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 535 is revised to read as follows:
 Authority: 50 U.S.C. 1701-1706; Pub. L. 104-132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); E.O. 12710, 44 FR 65729, 3 CFR, 1979 Comp., p. 457; E.O. 12205, 45 FR 24099, 3 CFR, 1980 Comp., p. 248; E.O. 12211, 45 FR 26685, 3 CFR, 1980 Comp., p. 253; E.O. 12276, 46 FR 7913, 3 CFR, 1981 Comp., p. 104; E.O. 12279, 46 FR 7919, 3 CFR, 1981 Comp., p. 109; E.O. 12280, 46 FR 7921, 3 CFR, 1981 Comp., p. 110; E.O. 12281, 46 FR 7923, 3 CFR, 1981 Comp., p. 112; E.O. 12282, 46 FR 7925, 3 CFR, 1981 Comp., p. 113; E.O. 12282, 46 FR 7927, 3 CFR, 1981 Comp., p. 113; E.O. 12283, 46 FR 7927, 3 CFR, 1981 Comp., p. 114; and E.O. 12284, 46 FR 14111, 3 CFR, 1981 Comp., p. 139.

Subpart G—Penalties

2. Section 535.701 is amended by adding paragraph (c) to read as follows:

§ 535.701 Penalties.

• • • • •

(c) Attention is directed to 18 U.S.C. 2332d, as added by Public Law 104-132, section 321, which provides that, except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, a U.S. person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

PART 550—LIBYAN SANCTIONS REGULATIONS

1. The authority citation for part 550 is revised to read as follows:

Authority: 50 U.S.C. 1701-1706; 50 U.S.C. 1601-1651; 22 U.S.C. 287c; 49 U.S.C. App. 1514; 22 U.S.C. 2349aa-6 and 2349aa-6; Pub. L. 104-132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); 3 U.S.C. 301; E.O. 12543, 51 FR 875, 3 CFR, 1986 Comp., p. 181; E.O. 12544, 51 FR 1235, 3 CFR, 1986 Comp., p. 183; E.O. 12801, 57 FR 14319, 3 CFR, 1992 Comp., p. 294.

Subpart G—Penalties

2. Section 550.701 is amended by redesignating the existing paragraph (c) as (d) and adding paragraph (c) to read as follows:

§ 550.701 Penalties.

(c) Attention is directed to 18 U.S.C. 2332d, as added by Public Law 104-132, section 321, which provides that, except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, a U.S. person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

PART 560—IRANIAN TRANSACTIONS REGULATIONS

1. The authority citation for part 560 is revised to read as follows:

Authority: 50 U.S.C. 1701-1706; 50 U.S.C. 1601-1651; 22 U.S.C. 2349aa-6; Pub. L. 104-132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); 3 U.S.C. 301; E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR 1995 Comp., p. 332; E.O.

12959, 60 FR 24757, 3 CFR 1995 Comp., p. 356.

Subpart G—Penalties

2. Section 560.701 is amended by adding paragraph (e) to read as follows:

§ 560.701 Penalties.

• • • • •

(e) Attention is directed to 18 U.S.C. 2332d, as added by Public Law 104-132, section 321, which provides that, except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, a U.S. person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

PART 575—IRACI SANCTIONS REGULATIONS

1. The authority citation for part 575 is revised to read as follows:

Authority: 50 U.S.C. 1701-1706; 50 U.S.C. 1601-1651; 22 U.S.C. 287c; Pub. L. 101-513, 104 Stat. 2047-55 (50 U.S.C. 1701 Note); Pub. L. 104-132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); 3 U.S.C. 301; E.O. 12722, 55 FR 31803, 3 CFR, 1990 Comp., p. 294; E.O. 12724, 55 FR 33089, 3 CFR, 1992 Comp., p. 317.

Subpart G—Penalties

2. Section 575.701 is amended by redesignating the existing paragraph (d) as (e) and adding paragraph (d) to read as follows:

§ 575.701 Penalties.

• • • • •

(d) Attention is directed to 18 U.S.C. 2332d, as added by Public Law 104-132, section 321, which provides that, except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, a U.S. person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

43462 Federal Register / Vol. 61, No. 165 / Friday, August 23, 1996 / Rules and Regulations

Dated: August 16, 1996.

Loren L. Debus,

*Acting Director, Office of Foreign Assets
Control.*

Approved: August 20, 1996.

James E. Johnson,

Assistant Secretary (Enforcement).

[FR Doc. 96-21704 Filed 8-21-96; 3:11 pm]

BILLING CODE 4810-25-7
